

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA

APR 10 2020

PETER A. MOORE, JR., CLERK
US DISTRICT COURT, EDNC
BY AS DEP CLK

UNITED STATES OF AMERICA

Plaintiff,

v.

JULIO NOYOLA CAMPOS

Defendant.

CASE NO. 5:19-CR-309

MOTION TO DISMISS PURSUANT TOFED. R. CRIM. P. / Global Pandemic

Comes now Julio Noyola Campos, Defendant in the above captioned case and hereby requests from this Honorable court to dismiss the above captioned case due to grave violations of the United States Constitution, errors of the Federal Rules of Criminal procedure and the Corona Pandemic - Covid-19.

This Honorable court does have jurisdiction due to this is the district in which this criminal complaint was filed.

The violations of my Constitutional rights and Fed. R. Crim. P. along with the global pandemic afford me protections

against intentional and prejudicial preaccusation delay. The due process clause and the Federal Statutes of limitations protects me from unnecessary delay. The Sixth Amendments Speedy trial guarantee, the speedy trial act of 1974 protects my rights as to my case being delayed for over 21 months violates my protections against preaccusation delay. 18 U.S.C. 3161-74 specifies time limits between arrest, indictment, and trial, and permissible delays, and also violates Fed. R. crim. P. 46(b) authorizing courts to dismiss indictments for governments unnecessary preindictment and "Post" indictment delay.

However the Due process clause may be violated even if an indictment is brought within the prescribed Statute of limitations.

My due process rights have been violated due to the prosecution unnecessarily delaying my trial to be heard.

My attorney allowing these delays to occur and now with court being further delayed to the effect of a Global Pandemic. I asked my attorney's not to delay my hearings and they blamed the U.S. Attorney and the courts. By me being held in an overcrowded environment with this Corona virus waiting to happen causes my conditions of confinement to outweigh my crime for which I am being charged. If the Corona virus breaks out its like a death sentence waiting to happen which would be "grossly disproportionate" to the severity of the offense.

To determine whether a defendant has been deprived of the right to a speedy trial courts consider the conduct of the defendant and the prosecution, focusing on the four factors articulated by the Supreme court in *Barker v.*

wings: (1) length of delay; (2) Reason for delay; (3)

whether, when, and how the defendant asserted the speedy trial right; and (4) whether the defendant was prejudiced by

the delay. U.S. v. Burgess, 684 F.3d 445, 451 (4th Cir.

2012) the length of delay must be presumptively prejudicial

to trigger examination of the Barker factors. My particular

case merits this examination due to all the unnecessary

delays and now the further delay of the courts not

moving forward due to this Global Pandemic. The courts

generally hold that delays in excess of one year is

presumptively prejudicial. U.S. v. Grimmond, 137 F3d, 923,

925 (4th Cir. 1998). I believe that there are and has been

deliberate attempts to hinder me the defense.

IN CONCLUSION

The Speedy Trial Act of 1974 establishes "Specific" time limits for completing "KEY" stages of a criminal federal prosecution. 18 U.S.C. 3161-74. Although the purpose of the act is to protect a defendants Constitutional right to a speedy indictment and trial, the court may find a violation of a defendants Sixth Amendment right to speedy trial even when the Act is not violated.

My rights under the laws of the United States Constitution, Fed. R. Crim. P. and this global pandemic are violating my rights to be free of cruel and unusual confinement thereby I would ask this Honorable Court to dismiss this case forthwith and in the best interest of justice.

Dated 04-07-2020

Respectfully Submitted
Julio Nayola C
Julio Nayola Campos